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EDWARDS ANGELL  
PALMER & DODGE LLP  
P.O. BOX 55874  
BOSTON MA 02205

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**JUN 19 2008**

**OFFICE OF PETITIONS**

In re Application of  
Nakajima, et al.  
Application No. 10/826,743  
Filed: 16 April, 2004  
Attorney Docket No. 60583(50530)

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: **DECISION ON PETITION**  
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This is a decision in reply to the petition filed on 11 February, 2008, under 37 CFR 1.47(a), averring the failure of an inventor to sign/join in the oath/declaration.

**NOTE:** There is no indication that Petitioner herein was ever empowered to prosecute the instant application.

If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to Petitioner.

However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The petition under 37 CFR 1.47 is **DISMISSED as inappropriate and as moot.**

Application No. 10/826,743

It appears that Petitioner Suanne Nakajima (Reg. No. L0344) may have filed this petition inappropriately, in that there is an averment that co-inventor Brian Porter has not signed the oath/declaration is in conflict with the evidence that the oath/declaration filed of record on 27 August, 2004, indicates the the signature of one identified as "Brian Porter."

Moreover, the instant application issued on 13 February, 2008, as Patent No. 7,176,208.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.<sup>1</sup>

### CONCLUSION

The instant petition under 37 C.F.R. §1.47 is **dismissed as moot**.


The instant application is released IFW Files Repository.

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<sup>1</sup> See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

Application No. 10/826,743

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2<sup>2</sup>) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

  
/John J. Gillon, Jr./  
John J. Gillon, Jr.  
Senior Attorney  
Office of Petitions

cc:  
SUANNE NAKAJIMA  
ELMORE PATENT LAW GROUP, P.C.  
209 MAIN STREET  
NORTH CHELMSFORD, MA 01863

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<sup>2</sup> The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.